

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRISHA YORK, a Washington resident,

Plaintiff,

vs.

SUNNY MONY & RAJAN INC 1, a Washington
corporation

Defendant.

NO.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF**

JURY DEMAND

COMES NOW, Plaintiff, Trisha York, by and through her attorneys, Conrad A. Reynoldson and Michael Terasaki of Washington Civil & Disability Advocate, for her Complaint for Declaratory and Injunctive Relief to state and allege as follows:

I. INTRODUCTION

1. The Americans with Disabilities Act (the “ADA”) and the Washington Law Against Discrimination require places of public accommodation to be accessible to people with disabilities.

2. A gas station is a place of public accommodation within the meaning of Title III of the ADA, 42 U.S.C. § 12181(7), and its implementing regulation, 28 C.F.R. § 36.104.

3. ADA accessibility laws and regulations were enacted into law in 1990, nearly 30

1 practices and procedures that gave rise to Plaintiff's Complaint for Injunctive Relief and
2 Damages occur in this district and Defendant's Property lies within this district.

3 **IV. FACTUAL ALLEGATIONS**

4 13. The ADA was enacted in 1990, "[t]o establish a clear and comprehensive
5 prohibition of discrimination on the basis of disability," and prohibits places of public
6 accommodation from providing separate or unequal benefits and services to individuals with
7 disabilities.

8 14. Defendant's property is one example of countless places of public
9 accommodation that are difficult or dangerous to access due to substantial and numerous
10 compliance issues with the ADA, despite decades of notice to property owners.

11 15. The findings and purpose section of the original ADA, 42 U.S.C. § 12101, states
12 that, "...individuals with disabilities continually encounter various forms of discrimination,
13 including outright intentional exclusion, [and] the discriminatory effects of architectural,
14 transportation, and communication barriers...."

15 16. Thus, Title III of the ADA states in relevant part: "No individual shall be
16 discriminated against on the basis of disability in the full and equal enjoyment of the goods,
17 services, facilities, privileges, advantages, or accommodations of any place of public
18 accommodation by any person who owns, leases (or leases to), or operates a place of public
19 accommodation." 42 U.S.C. § 12182(a).

20 Plaintiff

21 17. Ms. York is a Seattle, Washington resident who lives near Defendant's property
22 and travels throughout the Seattle area on a regular basis. Plaintiff most recently patronized
23 Defendant's Property in December, 2019.

1 18. Ms. York is limited in the major life activity of walking and requires the use of a
2 wheelchair for mobility and is thus a person with a disability within the meaning of Title III of
3 the ADA and the Washington Law Against Discrimination.

4 19. Ms. York will return to the Property once accessibility barriers are addressed.

5 Defendant's Property

6 20. Ms. York used her wheelchair, albeit at personal risk due to existing accessibility
7 barriers, to visit the Property.

8 21. Ms. York does not feel safe accessing the property as is due to the current
9 accessibility barriers.

10 22. Defendant's Property does not comply with the ADA's accessibility laws and
11 regulations under the 1991 ADA Standards for Accessible Design ("1991 Standards") and the
12 2010 ADA Standards for Accessible Design ("2010 Standards").

13 23. At Defendant's parking lot at the Property, there are less than 25 parking spaces.

14 24. On information and belief, Defendant's property has been repaved since 2012.

15 25. Repaving a parking lot is a significant alteration and thus Defendant's property is
16 subject to the 2010 ADA Standards.

17 26. Despite the recent repaving work, there are no ADA compliant wheelchair
18 accessible parking spaces at the parking lot at Defendant's Property.

19 27. Under the 2010 Standards Defendant's Property must include at least one (1)
20 accessible parking space and that parking space must be a "van-accessible" parking space. §
21 208.2 of the 2010 Standards and § 4.1.2 of the 1991 Standards.

22 28. Slope of accessible parking spaces must be no greater than 1:48 (approximately
23 2%) in any direction and must adjoin the accessible route. §§ 502.3-502.4 of the 2010 Standards

1 and § 4.3.6 of the 1991 Standards.

2 29. Accessible parking spaces must be identified with signage at least 60 inches
3 above the ground. § 502.6 of the 2010 Standards and § 4.6.4 of the 1991 Standards (Signage
4 must be high enough it “cannot be obscured by a vehicle parked in the space.”).

5 30. There is no signage for accessible parking at Defendant’s Property.

6 31. Van accessible parking spaces shall be 132 inches wide and served by an access
7 aisle of 60 inches, or 96 inches wide and served by an access aisle of 96 inches. § 502.2 of the
8 2010 Standards and §§ 4.1.2(5)(b) and 4.3.6 of the 1991 Standards.

9 32. Access aisles must be marked so as to discourage parking and adjoin the
10 accessible route. §§ 502.3 and 502.3.3 of the 2010 Standards.

11 33. The parking lot at Defendant’s Property does not have a properly sized and
12 marked van-accessible parking space and no access aisle is present at all.

13 34. Accessible routes must connect the accessible parking to the main entrance. Curb
14 ramps must have a slope no greater than 1:12. §§ 406.1 and 406.2 of the 2010 Standards.

15 35. The ramp from the parking lot to the front door at Defendant’s property exceeds a
16 slope of 1:12.

17 36. Doorways must have at least 42 inches of clear ground space (or more depending
18 on the approach direction) perpendicular from the door. § 404.2.4 et seq. of the 2010 Standards.
19 Additionally, that clear space must have a slope no greater than 1:48. § 404.2.4.4 of the 2010
20 Standards.

21 37. The front doorways at Defendant’s Property lacks sufficient clear, level ground
22 space as required under the 2010 Standards.

23 38. Ms. York requires compliant accessible parking and compliant accessible routes

1 in order to safely patronize Defendant's property using her wheelchair.

2 39. Defendant's property is not safe and is not welcoming for people who use
3 wheelchairs because it does not comply with the ADA's accessibility laws and regulations.

4 40. The failure of Sunny Mony & Rajan Inc 1 to make the property comply with the
5 ADA's accessibility laws and regulations works to exclude people with disabilities from equal
6 access to and enjoyment of the Property.

7 **V. FIRST CAUSE OF ACTION**
8 **Title III of the Americans with Disabilities Act of 1990**
9 **42 U.S.C. § 12101 et seq.**

10 41. Ms. York incorporates by reference the allegations in the paragraphs above.

11 42. Ms. York is limited in the major life activity of walking and is thus an individual
12 with a disability within the meaning of Title III of the ADA.

13 43. Title III of the ADA states in relevant part: "No individual shall be discriminated
14 against on the basis of disability in the full and equal enjoyment of the goods, services, facilities,
15 privileges, advantages, or accommodations of any place of public accommodation by any person
16 who owns, leases (or leases to), or operates a place of public accommodation." 42 U.S.C. §
17 12182(a).

18 44. Defendant Sunny Mony & Rajan Inc 1 owns or leases the property where the
19 Chevron station is located.

20 45. The Chevron station location is a gas station and therefore a place of public
21 accommodation. 42 U.S.C. § 12181(7).

22 46. Defendant has discriminated against Plaintiff on the basis of her disability.

23 47. Defendant's discriminatory conduct includes but is not limited to:

a. Discriminatory exclusion and/or denial of goods, services, facilities,

1 privileges, advantages, accommodations, and/or opportunities;

2 b. Provision of goods, services, facilities, privileges, advantages, and/or
3 accommodations that are not equal to those afforded non-disabled
4 individuals;

5 c. Failing to make reasonable modifications in policies, practices, and/or
6 procedures as necessary to afford the goods, services, facilities, privileges,
7 advantages, and/or accommodations to individuals with disabilities;

8 d. Failing to make alterations in such a manner that, to the maximum extent
9 feasible, the altered portions are readily accessible to and usable by
10 individuals with disabilities, including individuals who use wheelchairs;

11 e. Failing to remove barriers to individuals with disabilities where it would
12 be readily achievable to do so.

13 48. As such, Defendant discriminates and, in the absence of the injunction requested
14 herein, will continue in the future to discriminate against Plaintiff on the basis of disability in the
15 full and equal enjoyment of the goods, services, facilities, privileges, advantages,
16 accommodations and/or opportunities at Defendant's property in violation of Title III of the
17 Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. and/or its implementing regulations.

18 49. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
19 and Injunctive Relief has harmed Ms. York, and the harm continues.

20 50. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
21 and Injunctive Relief entitles Ms. York to declaratory and injunctive relief. 42 U.S.C. § 12188.

22 51. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory
23 and Injunctive Relief entitles Ms. York to recover reasonable attorneys' fees and costs incurred

1 in bringing this action. 42 U.S.C. § 12205.

2 **VI. SECOND CAUSE OF ACTION**
3 **Violation of the Washington Law Against Discrimination**
4 **(R.C.W. §§ 49.60.010 et seq.)**

5 52. Ms. York incorporates by reference the allegations in the paragraphs above.

6 53. Ms. York is an individual with a disability within the meaning of the Washington
7 Law Against Discrimination.

8 54. Under § 49.60.030(1) of the Revised Code of Washington provides in pertinent
9 part: “The right to be free from discrimination because of . . . the presence of any sensory,
10 mental, or physical disability . . . is recognized as and declared to be a civil right. This right shall
11 include, but not be limited to: . . . (b) The right to the full enjoyment of any of the
12 accommodations, advantages, facilities, or privileges of any place of public resort,
13 accommodation, assemblage, or amusement . . .”

14 55. Defendant has violated and continues to violate §§ 49.60.010 *et seq.* of the
15 Revised Code of Washington by violating multiple accessibility requirements under the ADA.

16 56. Defendant’s actions constitute discrimination against persons with disabilities and
17 violate the Washington Law Against Discrimination, Revised Code of Washington § 49.60.010
18 *et seq.*, in that persons with mobility disabilities have been and are still denied full and equal
19 enjoyment of the accommodations, advantages, facilities, privileges, and services that Defendant
20 provides to individuals who do not have disabilities.

21 57. As a direct and proximate result of Defendant’s discriminatory conduct as alleged
22 in this Complaint for Declaratory and Injunctive Relief, Ms. York has suffered and continues to
23 suffer difficulty, hardship, isolation, and segregation due to Defendant’s failure to correctly
remediate the Property.

58. Defendant's discriminatory conduct as alleged in this Complaint for Declaratory and Injunctive Relief has denied Ms. York the full and equal enjoyment of services that the Washington Law Against Discrimination requires.

59. Ms. York has a clear legal right to access the tenants of Defendant's Property under the Washington Law Against Discrimination.

60. Ms. York has the right for Defendant's property to comply with the ADA's accessibility laws and regulations under the Washington Law Against Discrimination.

61. Defendant's property does not comply with ADA accessibility laws and regulations.

62. Because Defendant's property does not comply with the ADA's accessibility laws and regulations, declaratory and injunctive relief are appropriate remedies under the Washington Law Against Discrimination. *See e.g. Kucera v. Dep't of Transp.*, 140 Wash. 2d 200, 209 (2000).

63. Pursuant to RCW § 49.60.030(2), Ms. York is entitled to declaratory and injunctive relief and to recover from Defendant her reasonable attorneys' fees and costs incurred in bringing this action.

VII. PRAYER FOR RELIEF

WHEREFORE, Ms. York respectfully requests that this Court:

1. Assume jurisdiction over this action;

2. Find and declare Defendant Sunny Mony & Rajan Inc 1 to be in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181, et seq. and the Washington Law Against Discrimination, Wash. Rev. Code §§ 49.60.010 et seq. because Defendant's Property does not comply with the ADA's accessibility laws and regulations;

3. Issue a permanent injunction ordering Defendant to immediately implement the

1 necessary improvements to bring the Defendant's property into compliance with the ADA's
2 accessibility laws and regulations;

3 4. Award Ms. York reasonable attorneys' fees and costs as authorized by 42 U.S.C. §
4 12205 and Wash. Rev. Code § 49.60.030(2);

5 5. Award actual, compensatory, and/or statutory damages to Ms. York for violations
6 of her civil rights as allowed under state and federal law;

7 6. Award such additional or alternative relief as may be just, proper, and equitable.

8 DATED THIS 18th day of December, 2019

9 By:

10 s/ Conrad Reynoldson

11 Conrad Reynoldson
12 WSBA# 48187
13 conrad@wacda.com
(206) 876-8515

14 s/ Michael Terasaki

15 Michael Terasaki
16 WSBA# 51923
17 terasaki@wacda.com
18 (206) 971-1124

19 WASHINGTON CIVIL & DISABILITY ADVOCATE
20 4115 ROOSEVELT WAY NE, SUITE B, SEATTLE, WA 98105
21 *Attorneys for Plaintiff Trisha York*
22
23